

TO: The Honorable Board of Supervisors

FROM: B. Clayton Goodman, III, County Administrator  
L. Carol Edmonds, Assistant County Administrator

DATE: August 11, 2008

**SUBJECT: AGENDA REPORT**

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**I. CALL TO ORDER**

**II. INTO CLOSED MEETING**

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
  1. Montgomery-Floyd Regional Library Board
  2. Parks & Recreation Commission
- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
  1. Prices Fork Elementary School Site

**III. OUT OF CLOSED MEETING**

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

#### **IV. CERTIFICATION OF CLOSED MEETING**

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

#### **V. INVOCATION**

#### **VI. PLEDGE OF ALLEGIANCE**

#### **VII. DELEGATION**

**A. SUBJECT: VIRGINIA DEPARTMENT OF  
TRANSPORTATION**

**Virginia Department of Transportation**

David Clarke, VDOT Residency Administrator, will update the Board of Supervisors on road issues/concerns in Montgomery County.

**B. SUBJECT: COURTHOUSE PROJECT**

**Courthouse Project – Update**

Jack Murphy, Thompson + Litton, will provide an update on the Courthouse Project.

**VIII. PUBLIC ADDRESS**

**IX. ADDENDUM**

**X. CONSENT AGENDA**

**XI. OLD BUSINESS**

**A. SUBJECT: SPECIAL USE PERMIT – DALE ALDERMAN  
CONTRACTOR’S STORAGE YARD**

**R-FY-09-  
SPECIAL USE PERMIT  
DALE W. ALDERMAN  
FOR THE PURPOSE OF ALLOWING  
A CONTRACTOR’S STORAGE YARD  
AT 2980 PILOT ROAD  
IN THE SHAWSVILLE MAGISTERIAL DISTRICT  
PARCEL ID # 000474, TAX MAP NUMBER 108-A-25A**

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Dale W. Alderman request for a Special Use Permit (SUP) on 3.807 acres in an Agriculture (A-1) zoning district to allow a contractor’s storage yard is hereby **approved** with the following conditions:

1. Special Use Permit authorizes use of the property for a residential contractor’s storage yard and residential use only. No retail sales of any nature shall occur on site.
2. Employees shall be limited to six (6). Property shall contain no more than six (6) employee vehicles and no more than ten (10) pieces of construction equipment/vehicles at any time.

3. The contractor's storage yard shall not be open to the public and shall create no exterior impacts including noise, vibration, glare, odors, or electrical interference.
4. Equipment stored on the property shall be in good working condition and owned by the property owner. Equipment shall be stored only in areas designated for such storage on the concept plan dated July 8, 2008.
5. There shall be no outdoor storage of materials, tools, etc.
6. There shall be no trash, litter or debris stored on the site.
7. Repair work shall only be conducted on vehicles owned by the property owner. Unless manufactured as off-road vehicles, all vehicles stored on the property shall display current DMV plates, state inspection, and required Montgomery County decals in accordance with Montgomery County Code.
8. There shall be no storage of fuel onsite. The stream shall be protected from contaminants as required by local, state, or federal regulation.
9. Any lighting installed on-site shall be dusk to dawn, "full cut-off" type fixtures to avoid glare onto adjacent properties and Pilot Road.
10. Hours of operation shall be limited to 6:30 a.m. through 6:00 p.m.
11. Prior to construction of any new buildings on the property, owner shall obtain appropriate building permits, and/or other permits required by local, state, or federal regulation.
12. Entrance shall meet VDOT specifications.
13. Property owner shall plant a total of six (6) Weeping Willow (*Salix babylonica*) trees, or equivalent approved by the zoning administrator, along the creek bed area as shown on the Concept Plan dated July 8, 2008, revised July 31, 2008, to provide screening of storage yard from Pilot Road (SR 615). Trees shall be a minimum of 1.5" caliper at time of planting and planted with a minimum spacing of twenty-five (25) feet. All trees shall be planted by December 1, 2008 and shall be maintained in a viable condition by property owner.

The property is located at 2980 Pilot Road, identified as Tax Parcel No(s). 108-A-25A (Acct # 000474) in the Shawsville Magisterial District (District C).

**JUSTIFICATION:**

At a Regular Meeting on July 16, 2008 the Planning Commission, on a vote of 7-0 (Howard & Seitz absent), recommended **approval** of the Special Use Permit request to the Board of Supervisors.

At their July 28, 2008 meeting, the Board of Supervisors expressed concerns with the lack of buffering on the proposed contractors storage yard. The applicant agreed to plant six trees, to be approved by the Zoning Administrator, along the creek bed. This is addressed in proffer # 13.

See TAB **A** for a copy of the applicant's request and Planning Commission recommendation. A new site plan that includes the layout of the trees along the creek bed is also included in TAB **A**.

**B. SUBJECT:**

**SPECIAL USE PERMIT – PHILLIPS FAMILY TRUST – TELECOMMUNICATIONS TOWER**

**R-FY-09-  
SPECIAL USE PERMIT  
PHILLIPS FAMILY TRUST (AGENT: DEBBIE BALSER, NTELOS)  
FOR THE PURPOSE OF ALLOWING A  
100 FOOT TELECOMMUNICATIONS TOWER  
IN THE RINER MAGISTERIAL DISTRICT  
PARCEL ID # 014354, TAX MAP NUMBER 106-4-10B, 10A, 1\***

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Phillips Family Trust (Agent: Debbie Balser, nTelos) request for a Special Use Permit (SUP) on 53.893 acres in an Agriculture (A-1) zoning district to allow a 100 foot tall telecommunications tower is hereby **approved** with the following conditions:

1. Tower shall not exceed a total overall height of 105 feet inclusive of the proposed lightening rod with a ground elevation of 2,068 ft. Tower shall not have lighting. Tower shall have a base diameter not to exceed 30 inches and a top diameter of 24 inches (proposed size requested from applicant).

2. Site development shall be in substantial conformance with the plans entitled, "nTelos Proposed 100' Monopole Tower, Riner – RN770, 3140 Riner Road", prepared by Terradon Corporation, dated April 17, 2008 and signed by Timothy T. White, P.E. on May 30, 2008 (Sheets P-1 and P-2 signed June 23, 2008).
3. Tower shall be of a "monopole stealth design" where all antennae shall be flush mounted (distance between face of pole and outer face of antennas not to exceed 12 inches) on the structure. Tower shall be painted brown (Wooden Cabin or similar). All wiring and cables shall be located inside the pole structure.
4. Engineering plans signed and sealed by a licensed engineer in the State of Virginia shall be submitted to and approved by the Building Official prior to issuance of a building permit.
5. No platforms or dishes shall be permitted on the structure above the tree line.
6. Tower shall meet all regulations found in Section 10-48(6) of the Montgomery County Zoning Ordinance.
7. Backup generator, if applicable, shall not be fueled by any liquid fuel source.
8. Owner/agent shall provide emergency services antennae space on the proposed tower for the agreed upon rental rate of \$1 per year subject to the structural capacity of the tower and provided that emergency service antennae do not provide radio frequency interference to other antennae located upon the tower. Emergency service providers shall provide equipment. Tower owner/agent shall install the antennae at market rate.

The property is located east of Riner Road (Rt. 8), accessed by a private driveway located 200 feet south of 3148 Riner Road, and is identified as Tax Parcel No(s). 106- 4 10B,10A,1\* (Acct No. 014354), in the Riner Magisterial District (District D).

JUSTIFICATION:

At a Regular Meeting on July 9, 2008 the Planning Commission, on a vote of 7-1 (Seitz opposed, Lau absent), recommended **approval** of the Special Use Permit request to the Board of Supervisors. See TAB **B**.

## **XII. NEW BUSINESS**

### **A. SUBJECT: LITERARY LOAN APPLICATION**

#### **R-FY-09- MONTGOMERY COUNTY BOARD OF SUPERVISORS AUTHORIZING LITERARY LOAN FUND APPLICATION**

**WHEREAS**, Montgomery County, Virginia (**the “County”**) is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

**WHEREAS**, At a meeting of the Board of Supervisors of the County held on August 11, 2008, the Montgomery County School Board (**the “School Board”**) presented to the Board an application addressed to the Virginia Board of Education for the purpose of borrowing \$7,500,000 from the Literary Fund for the purpose set out in said application for the New Elliston – Lafayette & Shawsville Elementary School to be paid in 20 annual installments, and the interest thereon at 3 % paid annually.

**NOW THEREFORE, BE IT RESOLVED**, That the application of the School Board to the Virginia Board of Education for a loan of \$7,500,000 from the Literary Fund is hereby approved, and authority is hereby granted to the School Board to borrow \$7,500,000 for the purpose set out in said application.

The Board of Supervisors will each year during the life of this loan, at the time they fix the regular levies, fix a rate of levy for schools or make a cash appropriation sufficient for operation expenses and to pay this loan in annual installments and the interest thereon, as required by law regulating loans from the Literary Fund.

This resolution shall take effect immediately upon its passage.

**ISSUE/PURPOSE:** Authorize the application of a Literary Loan in the amount of \$7.5 million for the construction of a new Elliston-Lafayette Elementary School.

**B. SUBJECT:**

**RESOLUTION DECLARING THE BOARD'S  
INTENT TO REIMBURSE ITSELF**

**R-FY-09-**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY,  
VIRGINIA DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE  
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN  
EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE  
ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL  
PROJECTS FOR THE COUNTY**

**WHEREAS**, The County of Montgomery, Virginia (**the "County"**) is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

**WHEREAS**, The County has paid, beginning no earlier than (60 days prior to adoption of a reimbursement resolution), and will pay, on and after the date hereof, certain expenditures (**the "Expenditures"**) in connection with the acquisition of a certain capital projects, listed on the attached **Schedule A** for the County (**the "Projects"**); and

**WHEREAS**, The Board of Supervisors of the County (**the "Board"**) has determined that those moneys previously advanced no more than 60 days prior to the date of adoption of a reimbursement resolution and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the County for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (**the "Bonds"**).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA, AS FOLLOWS:**

Section 1. The Board hereby declares, in accordance with U.S. Treasury Regulation Section 1.150-2, as amended from time to time, the County's intent to reimburse the County with the proceeds of the Bonds for Expenditures with respect to the Projects made on and after the date which is no more than 60 days prior to the date of adoption of a reimbursement resolution. The County reasonably expects on the date hereof that it will reimburse itself for the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditures), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, (d) a grant to a party that is not related to or an agent of the County so long as such grant does not impose any



obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the County, and (e) complies with all applicable Literary Fund regulations.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Projects is set forth on **Schedule A**.

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Projects are placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. The County previously adopted resolutions relating to its intent to reimburse itself for Expenditures on the Projects on August 25, 2003, December 15, 2003, November 16, 2005 and April 23, 2007, respectively, which are ratified, adopted and confirmed by reference in this resolution.

Section 6. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED THIS 11<sup>th</sup> day of August, 2008.

ISSUE/PURPOSE: Approve a resolution declaring the Board of Supervisors intent to reimburse the County for any expenses paid for the New Elliston-Lafayette Elementary School. See TAB C for a copy of Schedule A.

**C. SUBJECT: MONTGOMERY-FLOYD REGIONAL  
LIBRARY BOARD (1 Appointment)**

**R-FY-09  
MONTGOMERY-FLOYD REGIONAL  
LIBRARY BOARD (1 appointment)**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints \_\_\_\_\_ to the Montgomery-Floyd Regional Library Board effective August 12, 2008 and expiring June 30, 2012.

**D. SUBJECT: PARKS AND RECREATION COMMISSION  
APPOINTMENT (1 Appointment)**

**R-FY-09-  
PARKS AND RECREATION  
COMMISSION (1 appointment)**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints \_\_\_\_\_, who resides in District \_\_\_\_\_, to the Parks and Recreation Commission effective August 12, 2008 and expiring August 11, 2011.

**XIII. INTO WORK SESSION**

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. State Budget Cuts – FY 09 ( TAB **D** )

**XIV. OUT OF WORK SESSION**

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

**XV. COUNTY ATTORNEY'S REPORT**

**XVI. COUNTY ADMINISTRATOR'S REPORT**

1. Eastern Montgomery Transportation Issues ( TAB **E** )

## **XVII. BOARD MEMBERS' REPORT**

1. Supervisor Politis
2. Supervisor Muffo
3. Supervisor Creed
4. Supervisor Marrs
5. Supervisor Brown
6. Supervisor Biggs
7. Supervisor Perkins

## **XVIII. OTHER BUSINESS**

## **XIX. ADJOURNMENT**

### **FUTURE MEETINGS**

Adjourned Meeting  
Monday, August 25, 2008  
6:00 p.m. – Closed Meeting Items  
7:15 p.m. Regular Agenda

Regular Meeting  
Monday, September 8, 2008  
6:00 p.m. – Closed Meeting Items  
7:15 p.m. Regular Agenda

Adjourned Meeting  
Monday, September 22, 2008  
6:00 p.m. – Closed Meeting Items  
7:15 p.m. Regular Agenda